



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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September 3, 2010

Ms. Amy B. Henry
NEPA Specialist
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902

Subject: EPA NEPA Review Comments on TVA's FEIS for "Douglas and Nolichucky Tributary Reservoirs Land Management Plan"; Cocke, Greene, Hamblen, Jefferson and Sevier Counties, TN; CEQ #20100344; ERP #TVA-E65088-TN

Dear Ms. Henry:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject Tennessee Valley Authority (TVA) Final Environmental Impact Statement (FEIS) in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. In this EIS, TVA proposes to develop a Douglas and Nolichucky Tributary Reservoirs Land Management Plan (DNTRLMP; Plan) to guide land use decisions for approximately 3,191 acres of public lands under TVA's control located around Douglas Reservoir (French Broad River) and Nolichucky Reservoir (Nolichucky River) in northeastern Tennessee. EPA provided written comments on the Draft EIS (DEIS) in a letter dated April 19, 2010.

We note that the FEIS continues to identify Alternative C (*Modified Land Use Alternative*) as the TVA preferred alternative (pg. S-10). Similarly, EPA continues to concur with this selection over Alternative A (*No Action Alternative*) and action Alternative B (*Proposed Land Use Alternative*). EPA prefers Alternative C since it allocates more lands (713 ac) to the most protective Zone 3 (Sensitive Resource Management Zone) than does Alternative B (621 ac) and also allocates less lands (413 ac) to the less protective Zone 6 (Developed Recreation) than does Alternative B (496 ac), while lands allocated to Zone 4 (Natural Resource Conservation) are similar for both Alternative C (971 ac) and Alternative B (980 ac). Moreover, we appreciate that since the time of DEIS issuance, TVA has re-allocated an additional 17 acres of land to the more protective Zone 3 from Zone 4 (Table S-1). Moreover, we also agree with TVA that Alternative C appears to be the environmental preferred alternative (pg. S-10) and

commend TVA for its selection in the DEIS/FEIS, and prospectively in the TVA Record of Decision (ROD).¹

TVA's responses to EPA's comments on the DEIS are provided in Appendix F (pp. 1-207 to 1-209), including a copy of our NEPA comment letter (pg. 1-230). Our primary concern for this proposal was described in our DEIS comment letter as follows:

EPA's primary concern EPA's primary concern with the DEIS is the uncertainty – even after prospective TVA approval of Alternative C in the TVA ROD – whether or not allocated lands could be re-allocated by TVA to environmentally lesser zones (e.g., from the Sensitive Resource Management Zone 3 to Industrial Zone 5) during site-specific reviews or public requests to the TVA Board of Directors (Board). EPA would not concur with re-allocations to such zones due to the increased potential for developmental impacts relative to the proposed Alternative C allocations (but, as footnoted in the letter, would agree with re-allocations to more sensitive zones).

In response to Comment 19 (pg. 1-207), TVA indicated that the allocations were guidelines but that land uses incompatible with allocations would “most likely be rejected” and that changes in allocation would only occur for water access needs by industrial or recreational operations in private back-lying lands or for implementation of TVA policy or for newly-discovered deeded rights to shorelands. Re-allocation would need to be approved by the TVA Board and would involve the public during any environmental review. Accordingly, although this thoughtful response was well-written, it appears that TVA wishes to retain discretion to re-allocate lands during the Plan's term. Although only one commercial parcel is proposed for allocation by the alternatives and no others are currently identified (and additional recreational parcels were considered more likely than industrial parcels), it appears that re-allocation requests for more developmental zones could be entertained by the TVA Board and conceivably granted for re-allocation within the term of the DNTRLMP.

Accordingly, EPA concludes that there remains some uncertainty as to the sustainability of the proposed allocations even if finalized under Alternative C, and that future re-allocations to a less protective zone could conceivably occur. While we can respect that TVA wishes to remain flexible in its land allocation, we believe that the DNTRLMP would be more meaningful if it was more than guidance and was principally not changed during its term after ROD issuance. For example, we suggest that future additional water access for approvable recreation needs (e.g., boat ramps) should occur within the seemingly abundant 413 acres of lands so-allocated to Zone 6. Alternatively, any land re-allocated to a less protective zone under special circumstances that may

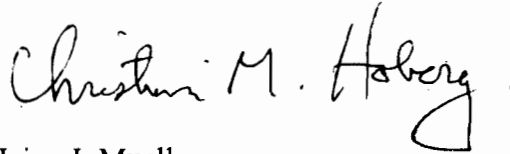
¹ We note that all three alternatives presented allocate 3 acres to Zone 5 (Industrial). Although this allocation constitutes only 0.1% of the lands, the TVA ROD should disclose the type of industrial or commercial sector that plans to locate on this shoreline parcel. Table 2.1-1 indicates that Zone 5 is intended for industry requiring water access or land-based development (including for public sale).

protective zone to maintain or enhance the balanced allocations proposed under Alternative C.

Although we continue to support the DNTRLMP allocations proposed for Alternative C, we nevertheless have some environmental concerns. Accordingly, from a water quality and habitat protection perspective, EPA recommends that the TVA Board finalize and uphold the current allocations and not grant re-allocations to less protective zones involving shoreland development and its potential impacts to shorelands and reservoirs.

EPA appreciates the opportunity to review the FEIS. Should TVA have questions regarding our comments, please feel free to contact Chris Hoberg of my staff at 404/562-9619 or hoberg.chris@epa.gov.

Sincerely,

Handwritten signature of Christopher M. Hoberg in black ink.Handwritten word "for" in black ink.

Heinz J. Mueller
Chief, NEPA Program Office
Office of Policy and Management